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EB Docket No. 06-53

JUL 20 2006

Arkansas Cable Telecommunications Association; Comcast of Arkansas, Inc.; Buford Communications I, L.P. d/b/a Alliance Communications Network; WEHCO Video, Inc.; TCA Cable Partners d/b/a Cox Communications, and Cebridge Acquisition, L.P, d/b/a Suddenlink Communications

EB-05-MD-004

Complainants,

v.

Entergy Arkansas, Inc.,

Respondent

To: Office of the Secretary

**ENTERGY ARKANSAS, INC.'S RESPONSES TO COMPLAINANT  
ARKANSAS CABLE TELECOMMUNICATIONS ASSOCIATION'S  
FIRST SET OF DOCUMENT REQUESTS**

Entergy Arkansas, Inc. (“EAI”), for its response to complainant Arkansas Cable Telecommunications Association’s (“ACTA”) first set of document requests, states as follows:

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List A B C D E

## **GENERAL OBJECTIONS**

EAI's responses are subject to, qualified by, and limited by the following General Objections which apply to each specific document request as if incorporated and set out in full in response to each.

1. EAI generally objects to each document request to the extent it requires EAI to provide information not within its possession, custody, or control.
2. EAI generally objects to any document request that calls for information not within its present knowledge or which seeks to require EAI to offer a narrative of its case.
3. EAI generally objects to the document requests to the extent that they are unreasonably cumulative or duplicative and to the extent that the information requested is already within the possession of Complainants or is otherwise obtainable from some other source that is more convenient, less burdensome, or less expensive.
4. EAI generally objects to the document requests to the extent that they seek discovery of information that is not relevant to any claim or defense raised by Complainants or EAI and/or where the burden or expense of the proposed discovery would outweigh any benefit to ACTA of the discovery.
5. EAI generally objects to the document requests to the extent that they seek discovery of pure legal conclusions or contentions without any application to specific facts. Further, to the extent that any document request seeks discovery of EAI's legal contentions in relation to specific facts, EAI objects to the document request as being premature.
6. EAI generally objects to ACTA's document requests to the extent that they seek information or production of documents protected by the attorney-client privilege, the work

product doctrine, the party communication privilege, or any other legally recognized privilege, immunity, or doctrine.

7. EAI generally objects to ACTA's document requests to the extent that they seek information or documents protected from disclosure by a third party confidentiality agreement, statute, regulation, administrative order, or case law.

8. EAI generally objects to ACTA's document requests insofar as they seek confidential and/or proprietary information. EAI will respond or produce documents or other materials which contain confidential and/or proprietary information subject to the entry of a protective order governing use of such documents and information by the Administrative Law Judge.

9. EAI generally objects to any instruction, definition, interrogatory, or request to the extent it attempts to impose obligations on EAI greater than those established by the rules of the Federal Communications Commission, 47 C.F.R. §§ 1.311 through 1.325.

10. EAI submits these responses and will respond to ACTA's document requests without conceding the relevancy or materiality of the subject matter of any interrogatory or request or document, and without prejudice to EAI's right to object to further discovery, or to object to the admissibility of any additional proof on the subject matter of any document or response, at the time of the formal hearing of this proceeding before the Administrative Law Judge. EAI reserves the right to supplement any response herein at any time and in accordance with the Administrative Law Judge's order issued April 20, 2006, FCC 06M-09.

11. EAI's responses below that it will produce certain documents in response to document requests should be taken not as representations that such documents exist but as an

undertaking to locate and produce relevant, non-privileged documents, if they exist and can be found.

### **SPECIFIC OBJECTIONS AND RESPONSES TO REQUESTS**

**1:** Identify and produce all documents relied upon, referred to or used in any way to respond to Complainant ACTA's First Set of Interrogatories submitted to Entergy on June 20, 2006 in this matter.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. Responding further, see the documents produced in response to Request Nos. 2 through 21. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

**2:** Identify and produce all documents related to any change in or transfer of pole ownership either from another pole owner to Entergy, or from Entergy to another pole owner in Arkansas. For the purposes of this request, a change in or transfer of pole ownership includes (but is not limited to) circumstances where a pole owned by one party is removed, relocated or transferred and then replaced with a pole owned by another party. Responsive documents should include, but not be limited to, documents showing the dates and locations of such ownership changes.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated

to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds that it is producing responsive documents for the periods 2000 through the present. See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

3: Identify and produce all contracts, agreements, correspondence, memoranda and other documents related to the apportionment or allocation of costs of audits, surveys or inspections to cable operators and/or other attachers. Responsive documents should include those related to USS and any other agents, representatives, contractors or other persons identified in Complainant ACTA's First Set of Interrogatories, Interrogatory No. 13.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. Responding further, see response to Request No. 17. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

4: Identify and produce all contracts or agreements between Entergy and USS (including any of USS' affiliates, subsidiaries, parent companies, employees, owners or partners) for any work in Arkansas.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above

general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

5: Identify and produce all documents explaining, establishing or otherwise related to the scope of work USS performs for Entergy in Arkansas. Responsive document should include, but not be limited to those related to services USS performs for Entergy that were not part of the parties' original contracts or agreements.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. Responding further, see response to Request No. 4. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

6: Identify and produce all correspondence, memoranda and other documents related to any request for proposal or bid for audit, survey and inspection of Entergy's poles in Arkansas since January 1, 2001. Responsive documents should also include (but not be limited to) documents related to any responses to any such request for proposal or bid.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI

is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

7: Identify and produce all correspondence, memoranda and other documents related to Entergy's consideration of USS' services and Entergy's decision to hire USS.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: EAI has conducted a good faith search for documents responsive to this request but has not identified any such documents in its possession.

8: Identify and produce all marketing materials Entergy received (whether solicited or unsolicited) related to USS' services. Responsive documents should include, but not be limited to, correspondence and e-mail pitching USS' services, whether they are in the form of general marketing materials or those tailored or targeted specifically to Entergy.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

9: Identify and produce all documents related to compensation to be paid by Entergy to

USS. Responsive documents should include, but not be limited to, information concerning financial incentives or rewards, bonuses, flat rate charges, hourly charges and any other monetary or in-kind compensation. In addition to the invoices being produced refer to the contracts in response to RFP 4.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. Responding further, see response to Request No. 4. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

**10:** Identify and produce all documents showing requests for payment USS has submitted to Entergy, including, but not limited to, amounts Entergy has already paid as well as amounts Entergy currently owes to USS. Responsive documents should include, but not be limited to, paid and unpaid invoices or billing statements.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

**11:** Identify and produce all contracts, agreements, correspondence, memoranda and



other documents related to the standards USS and Entergy use to identify, evaluate and/or cite any kind engineering or safety code violations or other non-compliant conditions on Entergy's poles. Responsive documents should include, but not be limited to, those applicable to all attachments, including Entergy's. In addition to the Drawings and engineering minutes being produced refer to the NESC and the terms and conditions of the pole attachment agreements submitted with our response to complaint.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_.

Responding further, see the pole attachment agreements attached to Complainants' complaint as Exhibits 2A, 2B, 2C, and 2D. Responding further, see the requirements of the NESC which are equally available to ACTA. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

12: Identify and produce all correspondence, memoranda and other documents explaining, establishing or otherwise related to the standards USS and Entergy use to allocate responsibility for safety violations or other non-compliant conditions. Responsive documents should include those applicable to all attachments, including Entergy's.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

13: Identify and produce all correspondence, memoranda and other documents related to USS and Entergy quality control with respect to aerial plant and pole inspections. Responsive documents should include standards USS used to verify quality control of their own work as well as the standards Entergy uses to verify quality control of USS' work. These standards should include standards applicable to all attachments, including Entergy's.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

14: Identify and produce all notes, whether taken by Entergy personnel, representatives or agents, or other parties, from all meetings with USS, including, but not limited to, informal marketing or information sessions, meetings, conferences or telephone calls.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

15: Identify and produce correspondence, memoranda and other documents related to Entergy's engagement of Wil Arnett and/or USS to conduct surveys, audits or inspections, including but not limited to, notes, marketing materials, contracts, agreements, payment terms, invoices, scope of work and any standards for identification of violations or other non-compliant conditions and assessment of costs to either Entergy or other attaching parties.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See response to Request Nos. 3 through 13.

16: Identify and produce all records and/or documentation of prior surveys, audits or inspections identified in Complainant ACTA's First Set of Interrogatories, Interrogatory No. 13.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly

broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds that it is producing responsive documents of surveys, audits, and inspections of CATV attachments for the periods 2001 to present. See EAI \_\_\_\_ through EAI \_\_\_\_\_. Responding further, inventory maps for 2001 to present will be made available for inspection at the locations where such maps are regularly maintained at a mutually agreed time. [Other than the inventory maps, EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

**17:** Identify and produce all pole attachment agreements between Entergy and/or its predecessors and all communications attachers. Responsive documents should include, but not be limited to joint-use agreements with Incumbent Local Exchange Carriers. (It is not necessary to include copies of agreements that were attached to the February 18, 2005 Complaint.)

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, and seeks confidential commercial information. Subject to and without waiving the above general and specific objections, EAI responds as follows:

Responsive documents relating to EAI, if any, will be made available for inspection in Little Rock, Arkansas upon execution and entry of an appropriate protective order.

**18:** Identify and produce all correspondence, memoranda and other documents related in any way to Entergy's response to damage to its or other attachers' plant or facilities resulting from the ice storms of 2000 and 2001 referenced in the February 18, 2005 Complaint and April

19, 2005 Response. Please do not produce documents that Entergy attached to the April 19, 2005 Response.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: Documents responsive to this request are part of the public record in Arkansas Public Service Commission Docket No. 01-084-U, In the Matter of the Application of Entergy Arkansas, Inc, for Approval of Storm Recovery Rider (Rider SR) and are as easily accessible by ACTA as by EAI.

**19:** Identify and produce all policies, plans, manuals, correspondence, memoranda and other documents related to Entergy's installation, maintenance, upgrading and inspection of its electric plant or facilities and other attachers' plant or facilities.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, and seeks confidential commercial information. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_ through EAI \_\_\_. Responding further, see response to Request No. 11 and Request No. 17. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

**20:** Identify and produce all correspondence, memoranda and other documents related in any way to Complainants' alleged responsibility for damage to Entergy's electric plant or facilities. Please do not produce documents Entergy attached to the April 19, 2005 Response.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See EAI \_\_\_\_ through EAI \_\_\_\_\_. [EAI is simultaneously producing documents responsive to this request in electronic format. EAI will supplement this response, to identify by EAI document number, the documents responsive to this request.]

21: Identify and produce all correspondence, memoranda and other documents used or otherwise relied upon in preparing Entergy's April 19, 2005 Response filed in this action.

**RESPONSE:** Objection. EAI objects to this request on the grounds that it is overly broad, unduly burdensome, and requests information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the above general and specific objections, EAI responds as follows: See response to Request Nos. 1 through 20.

Respectfully submitted,

Handwritten signature of Shirley S. Fujimoto in black ink, followed by a forward slash and the number 20.

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Dated: July 20, 2006

*Attorneys for Entergy Arkansas, Inc.*

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington D.C. 20554**

In the Matter of	)	
	)	
Arkansas Cable Telecommunications	)	EB Docket No. 06-53
Association; Comcast of Arkansas, Inc.;	)	
Buford Communications I, L.P. d/b/a	)	
Alliance Communications Network;	)	
WEHCO Video, Inc.; and TCA Cable	)	
Partners d/b/a Cox Communications	)	File No.: EB – 05 - MD-004
	)	
<i>Complainants</i>	)	
	)	
v.	)	
	)	
Entergy Arkansas, Inc.	)	
	)	
<i>Respondent.</i>	)	
	)	

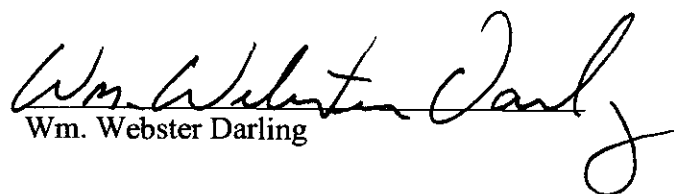
**VERIFICATION**

I, Wm. Webster Darling, pursuant to 47 C.F.R. §§ 1.246 and 1.323, hereby declare as follows:

I am an individual over the age of 18 and am employed by Entergy Services, Inc., a subsidiary of Entergy Corporation. I am familiar with the factual matters described in the responses to complainant Arkansas Cable Telecommunications Association's first set of interrogatories and oversaw its preparation. I have reviewed the responses to complainant Arkansas Cable Telecommunications Association's first set of interrogatories and to the best of my knowledge and belief, all the facts stated therein are true and correct.



I declare under penalty of perjury that the foregoing is true and correct. Executed on  
July 19, 2006 at Little Rock, Arkansas.

  
Wm. Webster Darling

## **CERTIFICATE OF SERVICE**

I, Erika E. Olsen, do hereby certify that on this 20<sup>th</sup> day of July, 2006, a single copy (unless otherwise noted) of the foregoing "Entergy Arkansas, Inc.'s Responses to Complainant Arkansas Cable Telecommunications Association's First Set of Document Requests" was delivered to the following by the method indicated:

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